

1 STATE BAR OF CALIFORNIA  
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PUBLIC MATTER

FILED

NOV 27 2017

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of:

GILBERT WHITNEY LEIGH,  
No. 153457,

A Member of the State Bar

) Case No. 17-O-1124

) NOTICE OF DISCIPLINARY CHARGES

**NOTICE - FAILURE TO RESPOND!**

IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE  
WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT  
THE STATE BAR COURT TRIAL:

- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU  
WILL NOT BE PERMITTED TO PRACTICE LAW;
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN  
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION  
AND THE DEFAULT IS SET ASIDE, AND;
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.  
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE  
OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN  
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT  
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,  
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. Gilbert Whitney Leigh ("respondent") was admitted to the practice of law in the State  
4 of California on June 14, 2001, was a member at all times pertinent to these charges, and is  
5 currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 17-O-1124  
8 Rules of Professional Conduct, rule 3-110(A)  
9 [Failure to Perform with Competence]

10 2. In on or about April 2014, Peter Trepp employed respondent to perform legal  
11 services, namely to pursue a breach of contract action against two companies. After filing a  
12 lawsuit against the companies, *Peter Trepp v. Inktank Storage, Inc. and Red Hat, Inc.*, et al  
13 United States District Court Central District case number CV 15-02008-AB-AGR, respondent  
14 intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of  
15 Rules of Professional Conduct, rule 3-110(A), by failing to oppose defendant Inktank Storage's  
16 motion to dismiss, and failing to respond to the Court's Order to Show Cause why the case  
17 should not be dismissed for failure to prosecute Red Hat, Inc., resulting in the case being  
18 dismissed with prejudice.

19 COUNT TWO

20 Case No. 17-O-1124  
21 Business and Professions Code, section 6068(m)  
22 [Failure to Inform Client of Significant Developments]

23 3. Respondent failed to keep respondent's client, Peter Trepp, reasonably informed of  
24 significant developments in a matter in which respondent had agreed to provide legal services, in  
25 willful violation of Business and Professions Code, section 6068(m), by failing to inform the  
26 client of the following:

27 ///

- 1 A) On or about May 1, 2015, defendant Inktank filed a motion to dismiss in the *Trepp v.*  
2 *Inktank, Inc.* case;
- 3 B) On or about May 19, 2015, the court issued an Order to Show Cause requiring  
4 respondent to show why the case *Trepp v. Inktank, Inc.* should not be dismissed for  
5 failure to prosecute;
- 6 C) Respondent did not file an opposition to the motion to dismiss or a response to the  
7 Order to Show Cause; and
- 8 D) On or about May 27, 2015, the court granted the motion to dismiss and the case was  
9 dismissed with prejudice.

10  
11 COUNT THREE

12 Case No. 17-O-1124  
13 Business and Professions Code, section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

14 4. Respondent failed to cooperate and participate in a disciplinary investigation pending  
15 against respondent by failing to provide a substantive response to the State Bar's letters of March  
16 16, 2017 and April 11, 2017 which respondent received, that requested respondent's response to  
17 the allegations of misconduct being investigated in case no. 17-O-1124, in willful violation of  
18 Business and Professions Code, section 6068(i).

19  
20 NOTICE - INACTIVE ENROLLMENT!

21 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR**  
22 **COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE**  
23 **SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL**  
24 **THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO**  
25 **THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN**  
26 **INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE**  
27 **ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE**  
28 **RECOMMENDED BY THE COURT.**

NOTICE - COST ASSESSMENT!

**IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC**  
**DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS**  
**INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING**

1                   **AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND**  
2                   **PROFESSIONS CODE SECTION 6086.10.**

3                   Respectfully submitted,

4                   THE STATE BAR OF CALIFORNIA  
5                   OFFICE OF CHIEF TRIAL COUNSEL

6                   DATED: November 27, 2017

7                   By: 

8                   Erica L. M. Dennings  
9                   Senior Trial Counsel  
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# DECLARATION OF SERVICE

by  
U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 17-O-1124

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

## NOTICE OF DISCIPLINARY CHARGES



**By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))**

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco.



**By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))**



**By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))**

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ("UPS").



**By Fax Transmission: (CCP §§ 1013(e) and 1013(f))**

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.



**By Electronic Service: (CCP § 1010.6)**

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.



**(for U.S. First-Class Mail)** in a sealed envelope placed for collection and mailing at San Francisco, addressed to: (see below)



**(for Certified Mail)** in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,  
Article No.: 9414 7266 9904 2112 6627 37 at San Francisco, addressed to: (see below)



**(for Overnight Delivery)** together with a copy of this declaration, in an envelope, or package designated by UPS,  
Tracking No.: addressed to: (see below)

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to Respondent's Counsel via email:
Doron Weinberg, Counsel for Respondent	Doron Weinberg 523 Octavia St San Francisco, CA 94102-4313	Electronic Address doronweinberg@aol.com	doronweinberg@aol.com

☐ via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A


I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ("UPS"). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: November 27, 2017

SIGNED:

  
Meagan McGowan  
Declarant